IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 1074 of 2002

Between:

T.V.Subba Rao, S/o. Bapi Ssetty,
Sarada Aided Elementary school,

Bodawada mandagunta (V),Parchur(M),
Prakasam Dist.

..... PETITIONER

AND

1 The Manager, Sarada Aided Elementary school, Badawada,
Bodawada mandagunta (V),Parchur(M), Prakasam Dist.
2 The Dist. Educational Officer
Prakasam Dist, Ongole.
3 The Director of School Education A.P.,Hyderabad
4 Govt. of A.P., Rep.by its Secretary to govt.
Education department, Secretariat,
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Certiorari calling for the records relating to the impugned proc.No.SAES/1/2001-2002, dt.31.12.2001 issued by the manage, sarada Aided elementary school, Bodawada, Parchur Mandal, Prakasam Dist and quash the same as illegal, arbitrary, unjust, discriminatory and violative of articles 14, 16 and 21 of the Constitution besides opposed to all mandatory principles of nature justice, equity and fair play and declare that the petitioners is entitled to continue in service pending disposal of the Criminal appeal No. 39/1999 before the Sessions Court, Ongole and pass.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the 1st Respondent: MR Y.ASHOK RAJ

Counsel for the Respondent Nos.2 to 4: GP FOR SCHOOL EDUCATION

The Court made the following:

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ORDER:

Heard the counsel appearing for the respective parties i.e. Sri Y.Ashok Raj, appearing for the 1st respondent and the learned Government Pleader for Education appearing for respondents 2 to 4.

The petitioner questions the order of the first respondent (Manager, Sarada Aided Elementary School) dated 31.12.2001 in Proc.No.SAES/1/2001-2002 dismissing him from service with effect from 21.01.1999 i.e. from the date of his conviction in C.C.No.48 of 1994 on the file of the Additional Munsif Magistrate, Parchur.

The petitioner submits that he was dismissed from service on the ground that he was convicted by the learned Magistrate in the above said C.C. and that he filed Crl.A.No.39 of 1999 on the file of the V Additional District and Sessions Judge, Ongole, which was allowed by the judgment dated 28.10.2003 on merits holding that the petitioner has not misappropriated any scholarship amount, but there was only delay in depositing the said amount and accordingly the petitioner was acquitted setting aside the conviction and sentence passed by the trial Court in the above said C.C.

In view of the acquittal of the petitioner, the respondents are directed to consider the case of the petitioner for his reinstatement into service and pass appropriate orders in accordance with law within three weeks from the date of receipt of a copy of this order.

It is stated that against the Judgment of acquittal, acquitting the petitioner, dated 28.10.2003 in Crl.A.No.39 of 1999 on the file of the V Additional District and Sessions Judge, Ongole, the first respondent preferred an appeal after obtaining leave of this Court, vide Crl.A.No.1310 of 2004 and batch.

If that be so, if this Court allows the appeal preferred by the first respondent, reversing the acquittal judgment, it is always open for the respondents to take appropriate action against the petitioner, even after his reinstatement into service, pursuant to the judgment dated 28.10.2003 in Crl.A.No.39 of 1999 on the file of the V Additional District and Sessions Judge, Ongole.

The Writ Petition is, accordingly, disposed of. No costs.

Dsr

ASSISTANT REGISTRAR

To:

1. The Manager, Sarada Aided Elementary School,

Bodawada, Mandagunta (v), Parchur (M), Prakasam District

2. The District Educational Officer, Prakasam District, Ongole

3. The Director of School Education, A.P., Hyderabad

4. The Secretary to Government, Education Department,

Government of Andhra Pradesh, Secretariat, Hyderabad

5. Two CCs to the Government Pleader for School Education,

High Court Buildings, Hyderabad (OUT)

6. Two CD copies

*Form-NIC-OGS/WP{**NS**}*